

SENTENCING  
SPOTLIGHT ON

# unlawful use of a motor vehicle



Queensland Sentencing  
Advisory Council  
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# Sentencing Spotlight on...

## Unlawful use of a motor vehicle

This *Sentencing Spotlight* examines sentencing outcomes for unlawful use of a motor vehicle under s 408A of the *Criminal Code* (Qld) finalised in Queensland courts between 2005–06 and 2019–20.

### Summary of offences 2005–06 to 2019–20



**41,336 cases**

UUMV was the most serious offence (MSO) in

**16,022 cases**



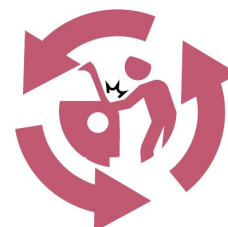
**4.8%**

of cases had  
**aggravating  
circumstances**



**Burglary**

was the most common  
MSO other than UUMV



**33.1%**

repeat offenders



**76.2%**

male offenders



**35.5%**

Aboriginal and/or Torres  
Strait Islander



Average age

**23.2 years**



**28.0%**

children and  
young offenders

#### ADULT OFFENDERS

Most common penalty was  
**imprisonment**



**35.8%**

imprisoned



Average prison  
sentence  
**10.1 months**

#### YOUNG OFFENDERS

Most common penalty was  
**probation**



**22.3%**

received probation

Average  
probation length  
**7.4 months**



Source: Department of Justice and Attorney-General's Queensland Wide Inter-linked Courts (QWIC) database, as maintained by the Queensland Government Statistician's Office (QGSO).

# Unlawful use of a motor vehicle

The offence of unlawful use or possession of a motor vehicle, aircraft or vessel is defined under s 408A of the *Criminal Code* (Qld).

A person commits a crime and is liable to a maximum penalty of seven years' imprisonment if the person:

- Unlawfully uses any motor vehicle, aircraft or vessel without the consent of the person in lawful possession of it;<sup>1</sup> or
- has possession of any motor vehicle, aircraft or vessel, if this is done:
  - without the consent of the person in lawful possession of it; and
  - intending to deprive that person (or the owner) of the use and possession of it (either temporarily or permanently).<sup>2</sup>

A person who is a passenger in a vehicle they know to be stolen is also guilty of the offence.

There are circumstances of aggravation that increase the maximum penalty applicable. These are:

- using or intending to use the vehicle to commit an indictable offence - 10 years;<sup>3</sup> or
- wilfully (or intends to) destroying, damaging, removing or otherwise interfering with a mechanism or other part of or attached equipment - 12 years.<sup>4</sup>

Unlawful use of a motor vehicle offences must generally be dealt with in the Magistrates Courts. If the appropriate sentence is more than three years' imprisonment, a magistrate must send the charge to the District Court (which can impose a sentence up to the maximum penalty that applies).<sup>5</sup>

Some cases of unlawful use of a motor vehicle must be dealt with by the District Court. These are where:

- the vehicle is valued at \$30,000 or more and the offender does not plead guilty; or
- the aggravated 10-year maximum penalty applies and the other indictable offence the vehicle is to be

used for will be, or would have to be, dealt with in a higher court if it was charged; or

- the aggravated 12-year maximum penalty applies, and the value of the damage etc is \$30,000 or more (regardless of the value of the motor vehicle, aircraft or vessel involved), and the offender does not plead guilty.<sup>6</sup>

Throughout this *Sentencing Spotlight*, the offence of 'unlawful use or possession of a motor vehicle, aircraft or vessel' is referred to as **unlawful use of a motor vehicle**.

## Similar offences

While this *Sentencing Spotlight* focuses on the offence of unlawful use of a motor vehicle under s 408A, there are several other similar offences in Queensland that also deal with the illegal use of a motor vehicle—see Table 1.

The decision regarding what charge(s) to use for a particular case is one made by the Queensland Police Service or the Office of the Director of Public Prosecutions (Queensland).

Figure 1 on the following page shows the number of cases sentenced for each of the offences described in Table 1. Over three-quarters of the cases (77.9%) were sentenced under the unlawful use of a motor vehicle.

## What is a 'motor vehicle'?

All of the *Criminal Code* offences described above share the same definition of 'vehicle' under s 1 of the *Criminal Code*.<sup>7</sup> It includes a motor vehicle, train, aircraft or vessel or anything else used or to be used to carry persons or goods from place to place.

A 'motor vehicle' is defined to include any machine or apparatus designed for propulsion wholly or partly by gas, motor spirit, oil, electricity, steam or other mechanical power, and also includes a motor cycle, or a caravan, caravan trailer or other trailer designed to be attached to a motor vehicle.

A vessel is further defined to include a ship or boat and every other kind of vessel used in navigation.

In relation to the summary offence, **vehicle** is defined to include a motor vehicle, bicycle and boat.<sup>8</sup>

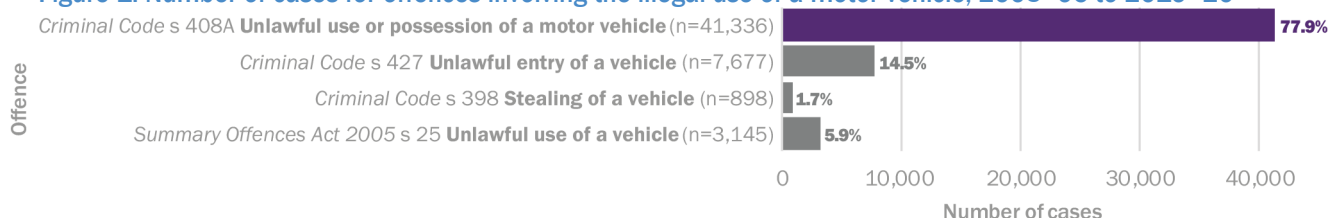
**Table 1: Types of offences involving the illegal use of a motor vehicle**

Legislation	Section	Offence	Maximum jail term	Maximum fine
<i>Criminal Code</i>	408A	Unlawful use or possession of a motor vehicle, aircraft or vessel	7 years (non-aggravated) 10/12 years (aggravated)	Not specified*
<i>Criminal Code</i>	427	Unlawful entry of a vehicle for committing indictable offence	10 years (non-aggravated) 14 years (aggravated – at night/violence/armed/in company/damage)	Not specified*
<i>Criminal Code</i>	398 cl 12	Stealing of a vehicle	14 years	Not specified*
<i>Summary Offences Act 2005</i>	25	Unlawful entry, use, or possession of a vehicle	1 year	\$2,669†

\* The maximum fine that a Magistrates Court can impose for an indictable offence being dealt with summarily – such as s 408A – is \$13,345: *Criminal Code* (Qld) s 552H. If an Act creates an offence and does not provide a sentence, the maximum fine that the District Court can impose on an individual is \$557,153. There is no limit for the Supreme Court.

† fine amount calculated based on a penalty unit value of \$133.45 (current from 1 July 2020).

**Figure 1: Number of cases for offences involving the illegal use of a motor vehicle, 2005–06 to 2019–20**



Data includes: Higher and lower courts, adult and juvenile cases sentenced from 2005–19 to 2019–20.

Source: QGSQ, Queensland Treasury – Courts Database, extracted August 2020.

## Number of offenders

There were 41,336 sentenced cases involving the offence of unlawful use of a motor vehicle between 2005–06 and 2019–20. For 16,022 (38.8%) of those cases, unlawful use of a motor vehicle was the most serious offence (MSO). For the remaining 25,314 cases (61.2%) where unlawful use of a motor vehicle was not the MSO, the top three most common MSOs were: burglary (n=7,494, 29.6%), entering or being in any premises and committing an indictable offence (n=5,243, 20.7%) and dangerous operation of a vehicle (n=2,358, 9.3%).

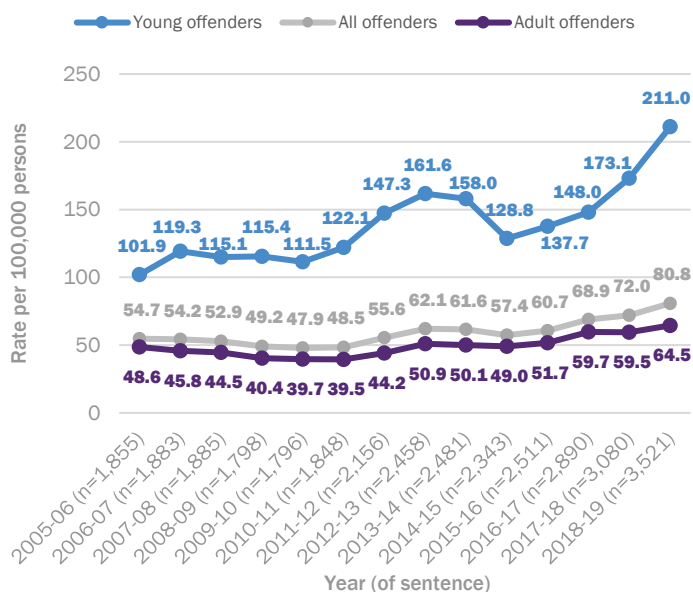
This *Sentencing Spotlight* focuses primarily on the 16,022 cases where the unlawful use of a motor vehicle was the MSO.

The number of cases (MSO) involving the unlawful use of a motor vehicle increased from 943 in 2005–06 to 1,496 in 2019–20, representing a 58.6 per cent growth.

Figure 2 shows the rate of unique offenders per 100,000 population for cases involving the unlawful use of a motor vehicle, by year of sentence and whether the offender was an adult or a child.<sup>9</sup> The rate of children and young people sentenced for unlawful use of a motor vehicle doubled from 101.9 in 2005–06 to 211.0 in 2018–19. While the rate for adult offenders also increased from 48.6 in 2005–06 to 64.5 in 2018–19, the increase was more modest.

Overall, the rate of those sentenced for this offence increased considerably from 2005–06 to 2018–19. This trend reflects the recent crime trends in Queensland for this offence and other types of theft.<sup>10</sup> It is important to note that the Council's data only covers a 15-year period from 2005–06 to 2018–19. Statistics published by the Queensland Government Statistician's Office on the number of crimes reported to police shows that, from 1999–2000 to 2018–19, there was a significant decline in the rate of unlawful use of a motor vehicle offences over a 20-year period — from a peak of 582 offences per 100,000 persons in 2000–01 to 297 offences per 100,000 persons in 2018–19.<sup>11</sup>

**Figure 2: Rate of offenders per 100,000 persons aged 10 years or over sentenced for unlawful use of a motor vehicle, by year of sentence and type of offender, 2005–06 to 2018–19**



Source: Queensland Government Statistician's Office, Queensland Treasury – Courts Database, extracted August 2020. Rates were calculated using the estimated resident population (ERP) data from Australian Bureau of Statistics, "National, state and territory population", March 2020. Rates were adjusted by the number of people in that age group (i.e. children and young people: 10-17 years, adults: 18 and older, all offenders: 10 and over).

## Circumstances of aggravation

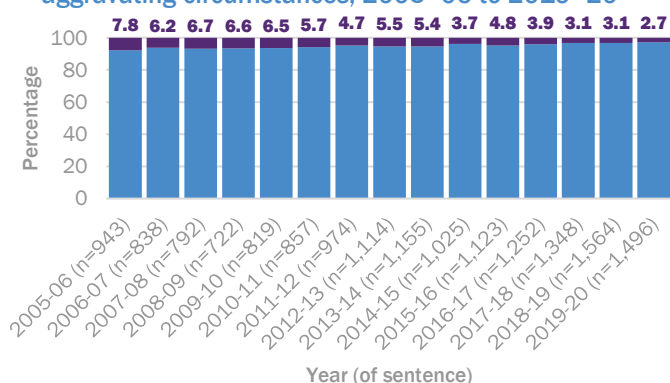
As discussed above, the maximum penalty for unlawful use of a motor vehicle increases from 7 years to 10 or 12 years if circumstances of aggravation ('aggravating circumstances') are charged and proved.

The overwhelming majority of the cases (MSO) did not have a circumstance of aggravation (n=15,251, 95.2%).

Among cases (MSO) that were aggravated, the most frequent aggravating circumstance was destroying, damaging or interfering with parts of the vehicle (n=460, 2.8%), followed by the unlawful use of a vehicle to commit an indictable offence (n=323, 2.0%). A small number of cases had a circumstance of aggravation recorded but it was not defined (n=10, 0.1%).

The number of cases with circumstances of aggravation (MSO) has decreased over time—see Figure 3.

**Figure 3: Proportion of cases involving unlawful use of a motor vehicle (MSO) by year and presence of aggravating circumstances, 2005–06 to 2019–20**



■ No aggravating circumstances ■ Aggravating circumstances

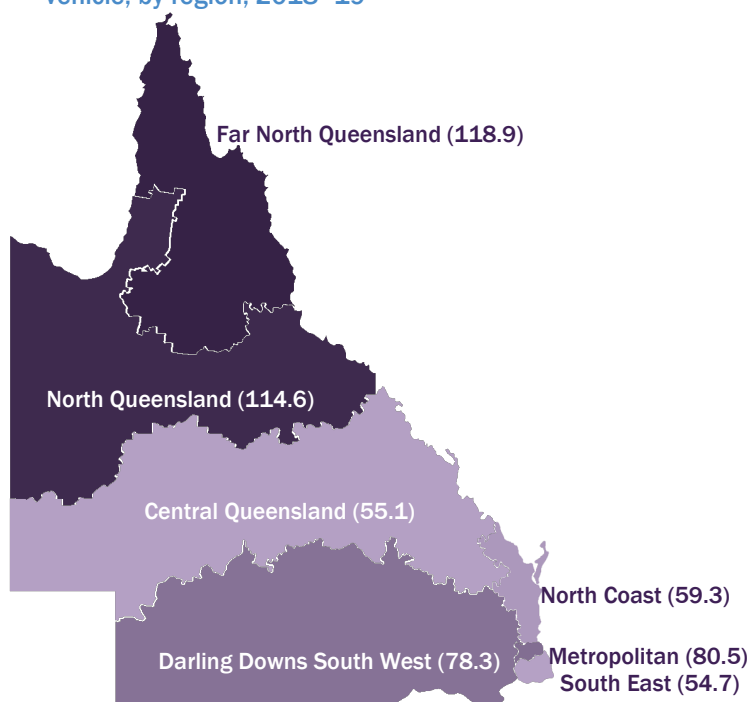
Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2020.

## Region

Figure 4 illustrates the rate of offenders (per 100,000 persons aged 10 years or over) by the region in which unlawful use of a motor vehicle cases were sentenced. The regions with the highest rate of offenders were in the Far North Queensland (118.9 per 100,000) and North Queensland (114.6 per 100,000).

The regions with the lowest rates of offenders were in the South East region (54.7 per 100,000) and Central Queensland (55.1 per 100,000).

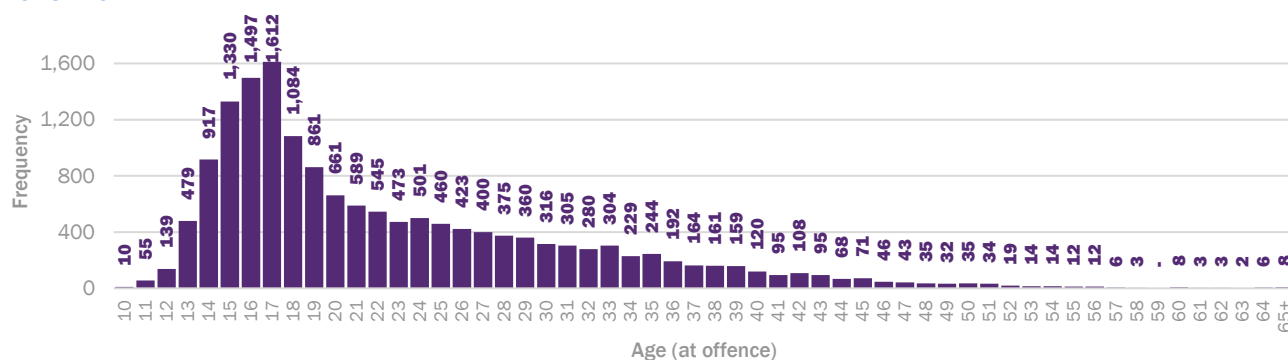
**Figure 4: Rate of offenders per 100,000 persons aged 10 years or over sentenced for unlawful use of a motor vehicle, by region, 2018–19**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2020. Rates calculated using estimated resident population data of people aged 10 and over, by Local Government Area from Australian Bureau of Statistics, "Regional population by age and sex", 2019.



**Figure 5: Number of offenders sentenced for unlawful use of a motor vehicle (MSO) by age at offence, 2005–06 to 2019–20**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2020.  
Note: None offenders were excluded as their age was unknown.

## Offender characteristics

This section compares the age, gender and Aboriginal and Torres Strait Is lander status of all cases sentenced for unlawful use of a motor vehicle (MSO) from 2005–06 to 2019–20.

### Age

The average age of offenders sentenced for unlawful use of a motor vehicle (MSO) at the time of the offence was 23.2 years (median=20.0 years), which is considerably younger than the average age of offenders sentenced in Queensland across all offence types (31.2 years).



## 17-years

### most common age of offenders sentenced for unlawful use of a motor vehicle (MSO)

The youngest person sentenced for the unlawful use of a motor vehicle was 10 years old (the youngest age at which a child can be found to be criminally responsible at law) and the oldest was 72 years old. Figure 5 shows the number of offenders sentenced by their age at the time of the offence.

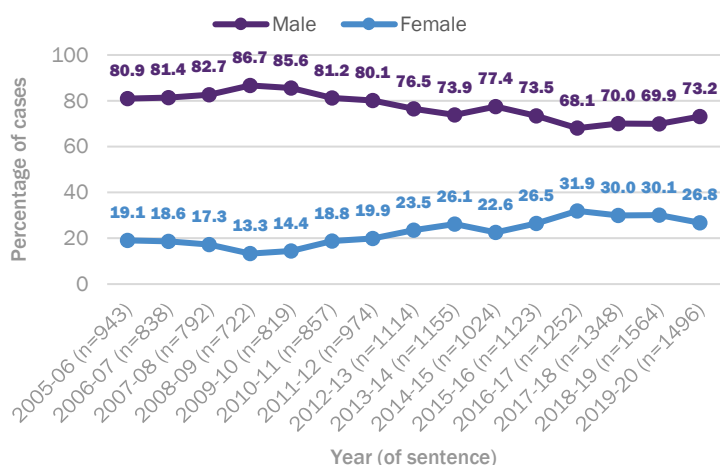
## Gender

Three-quarters of offenders sentenced for unlawful use of a motor vehicle (MSO) were male (n=12,211, 76.2%). This is almost identical to the proportion of male offenders sentenced across all offences in Queensland (76.4%).



The gender patterns for this offence have changed over time—see Figure 6. The proportion of female offenders sentenced for this offence reached a high of 31.9 per cent in 2016–17. The proportion of male offenders sentenced for unlawful use of a motor vehicle was at its peak in 2008–09 at 86.7 per cent but generally has been trending down ever since (with some annual fluctuations).

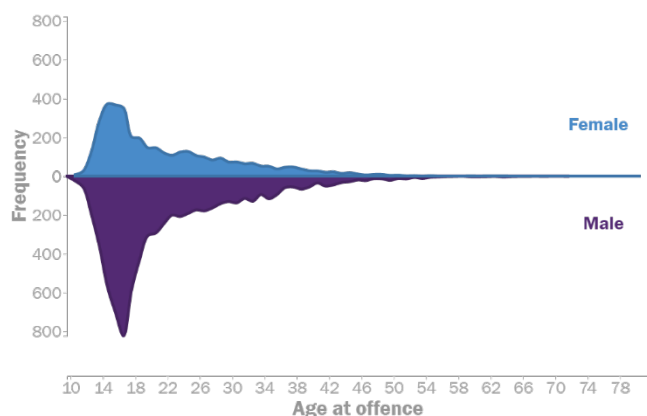
**Figure 6: Proportion of offenders sentenced for unlawful use of a motor vehicle (MSO) by gender and year of sentence, 2005–06 to 2019–20**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2020.  
Note: One offender was excluded as their gender was unknown.

On average, female offenders sentenced for unlawful use of a motor vehicle (MSO) were slightly younger than offenders who were male.<sup>12</sup> The average age at the time of the offence for female offenders was 22.8 (median=19.8), compared to 23.3 for male offenders (median=20.1)—see Figure 7.

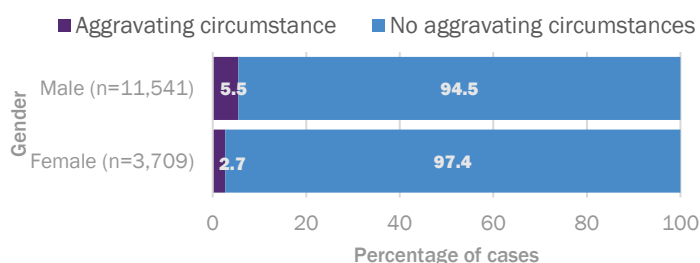
**Figure 7: Offenders sentenced for unlawful use of a motor vehicle (MSO) by gender and age at offence, 2005–06 to 2019–20**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2020.  
Note: 10 offenders were excluded as their age or gender was unknown.

The proportion of male offenders sentenced for unlawful use of a motor vehicle with aggravating circumstances was significantly higher (5.5%, n=607) than for females (2.7%, n=101)—see Figure 8.<sup>13</sup>

**Figure 8: Proportion of offenders sentenced for unlawful use of a motor vehicle (MSO) by gender and presence of aggravating circumstances, 2005–06 to 2019–20**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2020.  
Note: One offender was excluded as their gender was unknown.

## Aboriginal and Torres Strait Islander peoples

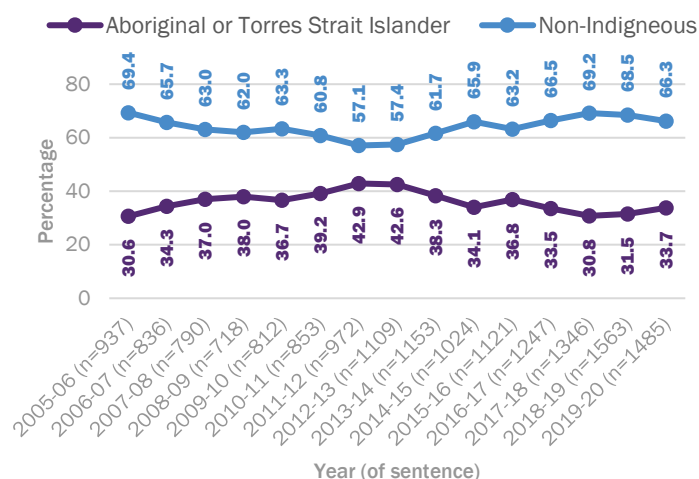
Although people who identify as Aboriginal and Torres Strait Islander represent approximately 3.8 per cent of

Queensland's population aged 10 years and over,<sup>14</sup> they accounted for just over one-third (n=5,690, 35.5%) of all offenders sentenced for unlawful use of a motor vehicle (MSO) over the 15-year reporting period. This percentage is much higher compared to the proportion of people sentenced for all other offences in Queensland who were identified as being Aboriginal or Torres Strait Islander (18.2%).



As noted previously, the overall number of cases involving unlawful use of a motor vehicle (MSO) increased from 2005–06 to 2019–20. Proportionally, the percentage of Aboriginal and Torres Strait Islander peoples sentenced for this offence has remained relatively stable across this period, with a slight increase during the 2011–12 and 2012–13 financial years, peaking at 42.9 and 42.6 per cent, respectively. Apart from this peak, the proportion of Aboriginal and Torres Strait Islander peoples has remained below 40 per cent.

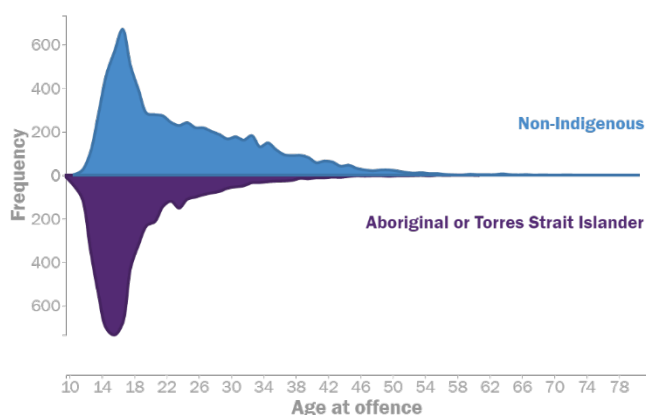
**Figure 9: Proportion of offenders sentenced for unlawful use of a motor vehicle (MSO) by Aboriginal and Torres Strait Islander status and year of sentence, 2005–06 to 2019–20**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2020.  
Note: 56 offenders were excluded as their Aboriginal and Torres Strait Islander status was unknown.

On average, Aboriginal and Torres Strait Islander offenders were significantly younger than their non-Indigenous counterparts.<sup>15</sup> The average age at time of the offence was 19.6 years for Aboriginal and Torres Strait Islander peoples (median=17.5), compared to 25.1 years for non-Indigenous people (median=22.7)—see Figure 10.

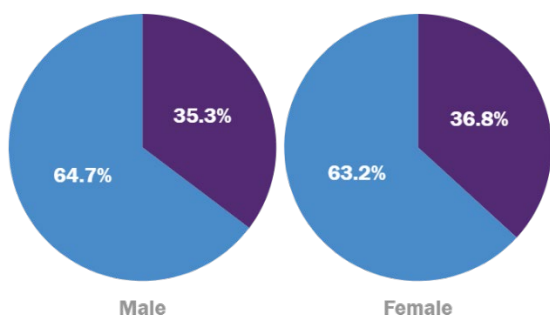
**Figure 10: Offenders sentenced for unlawful use of a motor vehicle (MSO) by Aboriginal and Torres Strait Islander status and age at offence, 2005–06 to 2019–20**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2020.  
Note: 64 offenders were excluded as their age or Aboriginal and Torres Strait Islander status were unknown.

Of the 12,172 male offenders sentenced for unlawful use of a motor vehicle, over a third were Aboriginal and Torres Strait Islander (n=4,295, 35.3%). A similar proportion of female offenders sentenced for this offence were Aboriginal or Torres Strait Islander (n=1,395, 36.8%)—see Figure 11. This difference was not statistically significant.<sup>16</sup>

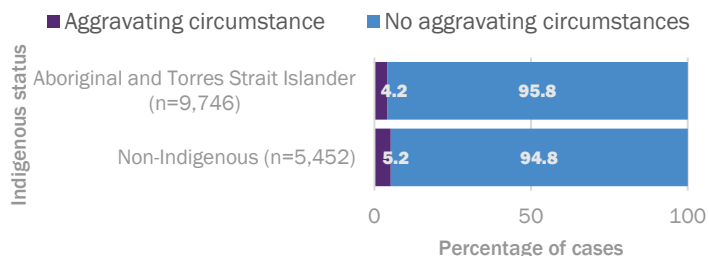
**Figure 11: Offenders sentenced for unlawful use of a vehicle (MSO) by Aboriginal and Torres Strait Islander status and gender, 2005–06 to 2019–20**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2020.  
Note: 56 offenders were excluded as their Aboriginal and Torres Strait Islander status or gender were unknown.

The proportion of Aboriginal and Torres Strait Islander offenders sentenced for unlawful use of a motor vehicle (MSO) with aggravating circumstances was slightly lower (4.2%, n=43) than that of non-Indigenous offenders (5.2%, n=530)—see Figure 12. This difference was statistically significant.<sup>17</sup>

**Figure 12: Proportion of offenders sentenced for unlawful use of a motor vehicle (MSO) by Aboriginal and Torres Strait Islander status and presence of aggravating circumstances, 2005–06 to 2019–20**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2020.  
Note: 56 offenders were excluded as their Aboriginal and Torres Strait Islander status was unknown.



## Children and young people

If, at the time of offence, an offender was aged 10–17 years under the current law, they are dealt with as a child under the *Youth Justice Act 1992* (Qld).

Prior to changes coming into effect in February 2018, 17-year-olds were dealt with under Queensland law as adults rather than as children.

A child aged 10–13 can only be found to be criminally responsible if the prosecution shows the child had the capacity to know they should not commit the offence at the time.<sup>18</sup>

Across all offences in Queensland over the data period, 4.2 per cent of cases involved young offenders sentenced as a child. In comparison, the offence of unlawful use of a motor vehicle (MSO) had a much higher proportion of



young offenders, with 28.0 per cent of cases committed by those aged 10–17 years (n=4,478).

The average age at the time of offence for children and young offenders was 15.3 years (median=15.5 years). children and young offenders were also more likely to be female compared to adult offenders. Just over a quarter of cases (n=1,220, 27.3%) involved offences committed by a female offender, compared to just over one in five cases where the person being sentenced was an adult (n=2,590, 22.4%)<sup>19</sup> – see Figure 13 on the following page.

Children and young offenders were also more likely than adult offenders to be Aboriginal and Torres Strait Islander, with over half identifying as such (n=2,525, 56.6%) compared to just over a quarter of adults (n=3,165, 27.5%).<sup>20</sup>

Only 3.6 per cent of cases involving children and young offenders had aggravating circumstances. This was significantly smaller than the 5.6 per cent of such cases involving adults.<sup>21</sup>

**Figure 13: Children and young offenders sentenced for unlawful use of a motor vehicle (MSO) by gender, Aboriginal and Torres Strait Islander status and presence of aggravating circumstance, 2005–06 to 2019–20**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2020.

Note: Offenders with unknown characteristics were excluded from each subcategory.

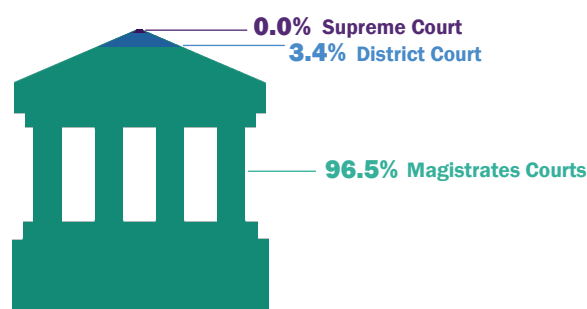
## Sentencing court

As noted above, unlawful use of motor vehicle offences must be dealt with in the Magistrates Courts—which cannot impose more than three years' imprisonment, unless certain specific criteria apply.

Cases involving children are dealt with by special courts established to deal with charges involving children at the Magistrates Court and District Court level.<sup>22</sup>

Most individuals sentenced for unlawful use of a motor vehicle (MSO) were sentenced in the Magistrates Court (n=15,464, 96.5%). These cases include children and young people sentenced in the Childrens Court (n=4,417 representing 28.6% of the total cases in the Magistrates Court).

Only seven cases (MSO) were sentenced in the Supreme Court. The rest were sentenced in the District Court (n=551, 3.4%). Among the cases sentenced in the District Court, 91 were sentenced in the Childrens Court of Queensland (representing 16.5% of the total cases in the District Court).



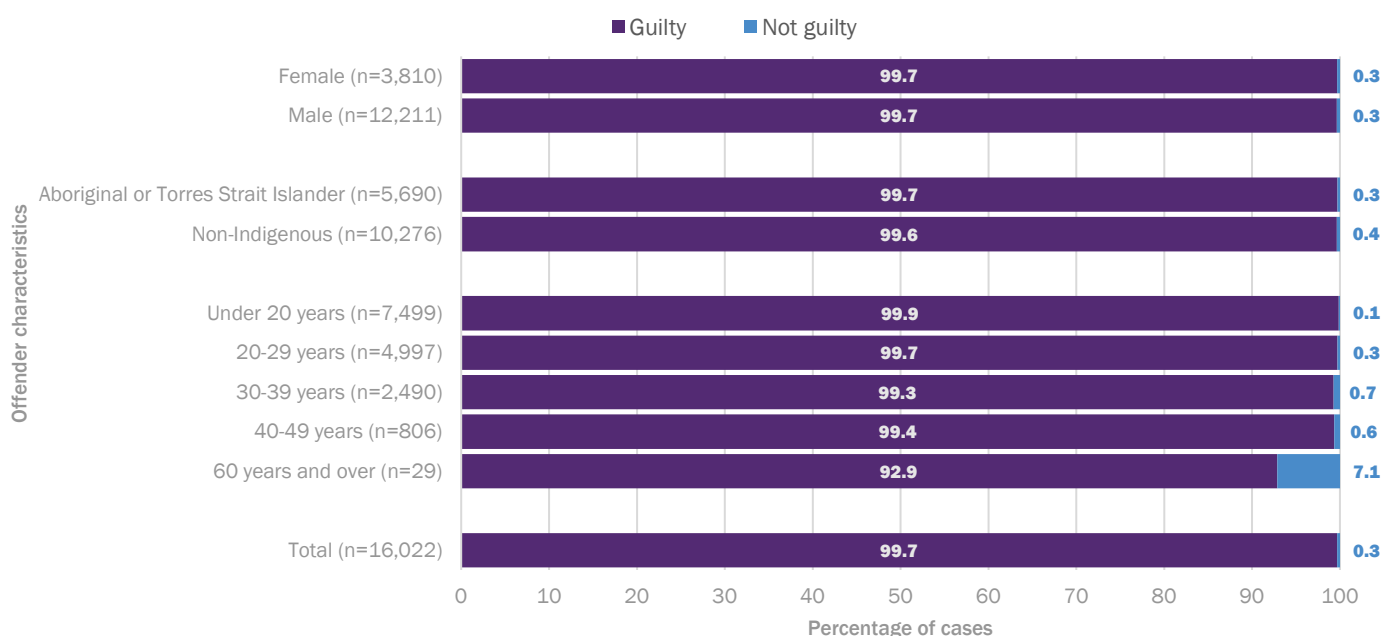
## Type of plea

The vast majority of offenders sentenced for unlawful use of a motor vehicle (MSO) pleaded guilty, either initially or at a subsequent date (n= 15,789, 99.7%). Only 53 offenders (0.3%) pleaded not guilty.

Figure 14 shows the differences in plea types by gender, age and Aboriginal and Torres Strait Islander status. Male and female offenders were equally likely to plead guilty (99.7%).<sup>23</sup> Similarly, Aboriginal and Torres Strait Islander (99.7%) and non-Indigenous offenders were equally likely to enter a guilty plea (99.6%).<sup>24</sup>

Those aged 60 years and over were the least likely to enter a guilty plea (92.9%), and offenders aged under 20 the most likely to plead guilty, with almost all entered a guilty plea (99.9%).

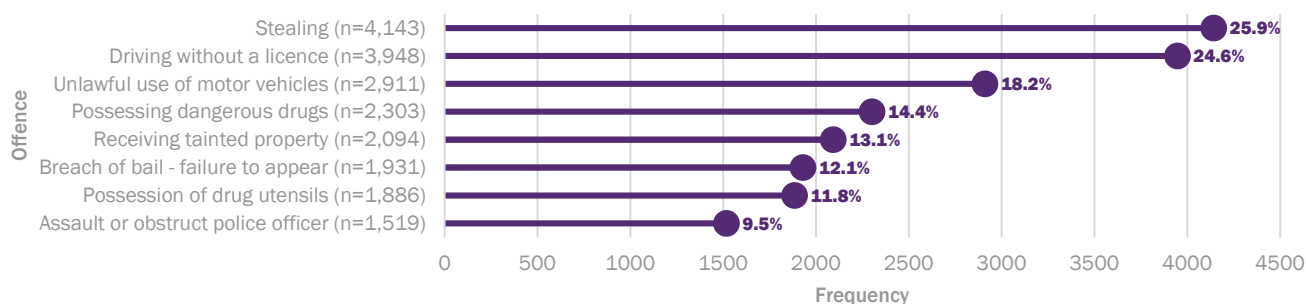
**Figure 14: Plea type of offenders sentenced for unlawful use of a motor vehicle (MSO) by gender, Aboriginal and Torres Strait Islander status and age at sentence, 2005–06 to 2019–20**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2020.

Note: 180 cases were excluded as the type of plea was unknown. Offenders with unknown characteristics were excluded from each subcategory.

**Figure 15: Top eight associated offences sentenced with unlawful use of a motor vehicle (MSO), 2005–06 to 2019–20**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2020.

## Associated offences

Some offenders sentenced for unlawful use of a motor vehicle (MSO) were sentenced for other offences at the same court event. Of the 16,022 cases (MSO), 27.3 per cent involved a single charge of unlawful use of a motor vehicle—see Table 2. One-fifth of the cases (n=3,092, 19.3%) involved one additional offence, with the remaining 53.4 per cent (n=8,557) involving 3 or more offences.

Figure 15 shows the top eight most common associated offences. Stealing was the most common offence sentenced alongside unlawful use of a motor vehicle—appearing in a quarter of cases (n=4,143, 25.9%). This was followed by driving without a licence.

Possessing dangerous drugs and possession of drug utensils collectively accounted for over one-quarter of associated offences (n=4,189, 26.1%).

In 18.2 per cent of the cases (n=2,911), the offender was sentenced for another charge of unlawful use of a motor vehicle.

Receiving tainted property (13.1%), breach of bail by failing to appear (12.1%) and assault or obstruction of a police officer (9.5%) were other offences frequently sentenced at the same time as unlawful use of a motor vehicle.

As shown in Table 2, the number of offences sentenced per offender per court event ranged from 1 to 106, with an average of 5.0 offences sentenced per court event (median=3.0).

There was no significant difference in the number of offences sentenced at the same court event for unlawful use of a motor vehicle (MSO) by gender (an average of 5.1 offences per event for female offenders compared to 5.0 for male offenders).<sup>25</sup>

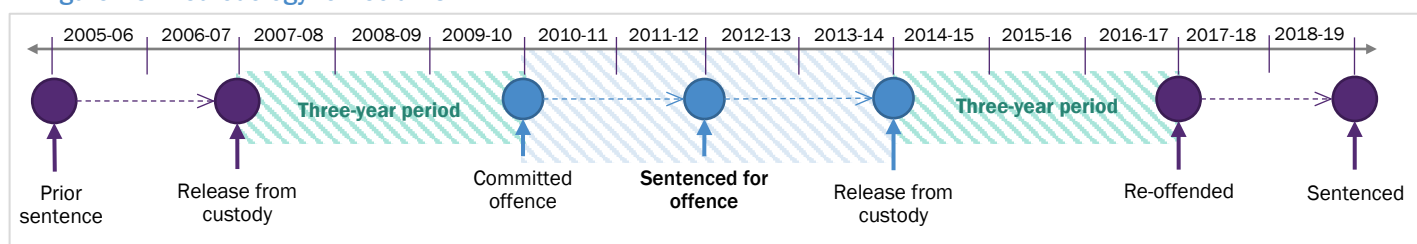
On average, the number of offences sentenced at the same court event for unlawful use of a motor vehicle was higher for non-Indigenous people than for Aboriginal and Torres Strait Islander peoples (an average of 5.6 offences per court event, compared to 4.0 for Aboriginal and Torres Strait Islander offenders). This difference was statistically significant.<sup>26</sup>

**Table 2: Number of sentenced offences per court event, by gender and Aboriginal and Torres Strait Islander status 2005–06 to 2019–20**

Offender type	N	Single offence (%)	2 to 4 offences (%)	5 to 10 offences (%)	11+ offences (%)	Number of offences			
						Avg	Median	Min	Max
Female	3,810	27.3	39.1	21.9	11.7	5.1	3.0	1	106
Male	12,211	27.3	40.1	20.9	11.7	5.0	3.0	1	91
Aboriginal or Torres Strait Islander	5,690	29.0	44.6	19.2	7.2	4.0	2.0	1	53
Non-Indigenous	10,276	26.4	37.3	22.1	14.2	5.6	3.0	1	106
<b>Total</b>	<b>16,022</b>	<b>27.3</b>	<b>39.9</b>	<b>21.1</b>	<b>11.7</b>	<b>5.0</b>	<b>3.0</b>	<b>1</b>	<b>106</b>

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2020.

Figure 16: Methodology for recidivism



The 'three-year period' refers to the time during which an offence must be committed for it to be included in the recidivism analysis. The offender must have committed a new offence within two years of being released from custody for a prior offence.

## Recidivism

Of the 21,553 offenders who were sentenced for unlawful use of a motor vehicle from 2005–06 to 2018–19 (regardless of whether the offence was their MSO), a third were repeat offenders (n=7,124, 33.1%). This means that, they had been sentenced for unlawful use of a motor vehicle on at least two occasions over the 14-year period.

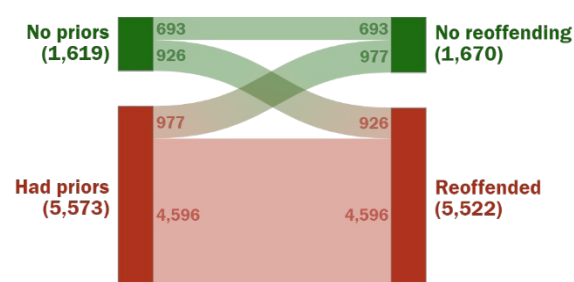
Offenders sentenced for unlawful use of a motor vehicle from 2010–11 to 2013–14 were examined in more detail to determine whether they had committed any other offences before or after being sentenced for unlawful use of a motor vehicle.<sup>27</sup> Prior and subsequent offending was operationalised as any sentencing event with an offence date that occurred within three years of an offender's expected release from custody—see Figure 16.

In 2010–11 to 2013–14, there were 7,192 unique individuals sentenced for unlawful use of a motor vehicle. Of these, over three-quarters had previously offended (n=5,573, 77.5%) and over three-quarters had committed a new offence of any kind after being sentenced for unlawful use of a motor vehicle (n=5,522, 76.8%)—see Figure 17.

Only 9.6 per cent (n=693) of offenders sentenced for unlawfully using a motor vehicle had no prior and no subsequent offence recorded. Of those who had no prior offence, 12.9 per cent (n=926) reoffended. Of those who

did have a prior offence, almost two-thirds reoffended (n=4,596, 63.9%) and 13.6 per cent (n=977) did not reoffend.

Figure 17: Reoffending by people sentenced for unlawful use of a motor vehicle, 2010–11 to 2013–14



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2020.

Table 3 shows that male offenders, on average, had 3.6 prior court events. This was significantly greater than female offenders who had an average of 3.0 prior court events.<sup>28</sup> Male offenders also had a slightly higher average number of subsequent court events at 2.8 compared to female offenders at 2.6.<sup>29</sup>


Aboriginal and Torres Strait Islander offenders were significantly more likely to have a higher number of both prior<sup>30</sup> and subsequent court events<sup>31</sup> compared to non-Indigenous offenders. On average, Aboriginal and Torres Strait Islander peoples had 4.2 prior court events (non-Indigenous=3.1) and 3.6 subsequent court events (non-Indigenous=2.3)—see Table 3.

Table 3: Prior and subsequent court events for offenders sentenced for unlawful use of a motor vehicle, 2010–11 to 2013–14

Offender type	N	No prior offences (%)	1 to 4 prior offences (%)	5+ prior offences (%)	Number of prior court events			
					Avg	Median	Min	Max
<b>Prior offending</b>	<b>7,192</b>	<b>22.5</b>	<b>47.7</b>	<b>29.8</b>	<b>3.5</b>	<b>3.0</b>	<b>0</b>	<b>33</b>
Female	1,268	25.3	50.2	24.4	3.0	2.0	0	23
Male	5,924	21.9	47.2	30.9	3.6	3.0	0	33
Aboriginal or Torres Strait Islander	2,578	18.1	44.6	37.3	4.2	3.0	0	33
Non-Indigenous	4,587	24.6	49.7	25.7	3.1	2.0	0	29
<b>Subsequent offending</b>	<b>7,192</b>	<b>23.2</b>	<b>56.5</b>	<b>20.3</b>	<b>2.8</b>	<b>2.0</b>	<b>0</b>	<b>27</b>
Female	1,268	26.2	54.8	19.0	2.6	2.0	0	22
Male	5,924	22.6	56.8	20.6	2.8	2.0	0	27
Aboriginal or Torres Strait Islander	2,578	14.8	55.7	29.5	3.6	3.0	0	25
Non-Indigenous	4,587	27.5	57.2	15.3	2.3	2.0	0	27

Note: Totals may not add to 100% due to rounding. Offenders with unknown characteristics are excluded from each subgroup.  
Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2020.

**Figure 18: Top eight most common prior offences of offenders sentenced for unlawful use of a motor vehicle, 2010-11 to 2013-14**

Offence (Prior)	Sentenced cases	Offender count
 <b>Stealing</b> <i>Criminal Code (Qld) s 398</i>	<b>4,354</b>	<b>2,369</b> (32.9%)
 <b>Driving without a licence</b> <i>Transport Operations (Road Use Management) Act 1995 (Qld) s 78</i>	<b>3,784</b>	<b>2,323</b> (32.3%)
 <b>Enter or being on premises and commit offence</b> <i>Criminal Code (Qld) s 421</i>	<b>3,743</b>	<b>2,049</b> (28.5%)
 <b>Unlawful use of a motor vehicle</b> <i>Criminal Code (Qld) s 408A</i>	<b>3,792</b>	<b>1,956</b> (27.2%)
 <b>Wilful damage</b> <i>Criminal Code (Qld) s 469</i>	<b>3,188</b>	<b>1,917</b> (26.7%)
 <b>Assault or obstruct police officer</b> <i>Police Powers and Responsibilities Act 2000 (Qld) s 790</i>	<b>2,585</b>	<b>1,759</b> (24.5%)
 <b>Breach of bail - failure to appear</b> <i>Bail Act 1980 (Qld) s 33</i>	<b>2,577</b>	<b>1,681</b> (23.4%)
 <b>Public nuisance</b> <i>Summary Offences Act 2005 (Qld) s 6</i>	<b>2,622</b>	<b>1,675</b> (23.3%)

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2020.

### Most common prior offences









Figure 18 shows the top eight most common offences that were committed by offenders prior to committing the offence of unlawful use of a motor vehicle in 2010–11 to 2013–14. The top eight most common prior offences were very similar to the prior offences found in the previous *Sentencing Spotlight* series on burglary.<sup>32</sup>

Two of the top three prior offences involved stealing and burglary. The most common prior offence was stealing, with 2,369 individuals (32.9%) sentenced at 4,354 court events for this offence. The third most common prior offence was entering or being on premises and committing indictable offences with almost one-third of individuals having committed this offence prior to their unlawful use of a motor vehicle offence (28.5% and 3,743 court events).

### Most common subsequent offences

Figure 19 shows the eight offences most commonly committed subsequent to being sentenced for unlawful use of a motor vehicle in 2010–11 to 2013–14. Except for possessing dangerous drugs, the offences committed subsequently were the same to the prior offences shown in Figure 18.

**Figure 19: Top eight most common subsequent offences of offenders sentenced for unlawful use of a motor vehicle, 2010-11 to 2013-14**

Offence (Post)	Sentenced cases	Offender count
 <b>Stealing</b> <i>Criminal Code (Qld) s 398</i>	<b>3,530</b>	<b>2,062</b> (28.7%)
 <b>Driving without a licence</b> <i>Transport Operations (Road Use Management) Act 1995 (Qld) s 78</i>	<b>2,774</b>	<b>1,899</b> (26.4%)
 <b>Unlawful use of a motor vehicle</b> <i>Criminal Code (Qld) s 408A</i>	<b>3,646</b>	<b>1,846</b> (25.7%)
 <b>Enter or being on premises and commit offence</b> <i>Criminal Code (Qld) s 421</i>	<b>2,628</b>	<b>1,575</b> (21.9%)
 <b>Assault or obstruct police officer</b> <i>Police Powers and Responsibilities Act 2000 (Qld) s 790</i>	<b>2,143</b>	<b>1,557</b> (21.6%)
 <b>Possessing dangerous drugs</b> <i>Drugs Misuse Act 1986 (Qld) s 9</i>	<b>1,851</b>	<b>1,432</b> (19.9%)
 <b>Breach of bail - failure to appear</b> <i>Bail Act 1980 (Qld) s 33</i>	<b>2,042</b>	<b>1,432</b> (19.9%)
 <b>Wilful damage</b> <i>Criminal Code (Qld) s 469</i>	<b>2,108</b>	<b>1,418</b> (19.7%)

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2020.



# Penalties and sentencing

From 2005–06 to 2019–20, 11,544 adults and 4,478 children were sentenced for unlawful use of a motor vehicle (MSO). A different sentencing regime applies to children and young people sentenced in Queensland under the *Youth Justice Act 1992* to that which applies to offenders sentenced as adults under the *Penalties and Sentences Act 1992*. For this reason, the penalties imposed on adult offenders and young offenders are discussed separately.

## Adult penalties

From 2005–06 to 2019–20, almost half of adults sentenced for unlawful use of a motor vehicle (MSO) received a custodial penalty (n=5,582, 48.4%). This is much higher than the 10.5 per cent of adult offenders who were sentenced to a custodial penalty across all offence types in Queensland.



The most common penalty imposed on adult offenders for unlawful use of a motor vehicle (MSO) was imprisonment (n=4,129, 35.8%). An additional 11.7 per cent of adult offenders received a suspended sentence of imprisonment (n=1,346). Only a small proportion of offenders were sentenced to an intensive correction

order, another form of custodial order (n=93, 0.8%)—see Table 4.

Non-custodial penalties accounted for 51.6 per cent of penalties imposed on adult offenders (n=5,962). The most common non-custodial penalties were monetary penalties, with 2,631 offenders receiving this penalty type over the data period (22.8%). Probation was the second most common non-custodial penalty at 14.7 per cent (n=1,699), followed by community service at 8.0 per cent (n=916).

Table 4 shows the different penalty types for unlawful use of a motor vehicle (MSO) by gender, Aboriginal and Torres Strait Islander status and presence of aggravating circumstances.

Cases involving a charge of unlawful use of a motor vehicle with aggravating circumstances were more likely to result in a term of imprisonment (42.4%) compared to unlawful use of motor vehicle without aggravating circumstances (35.4%).

Male offenders (39.0%) were more likely to be sentenced to imprisonment compared to female offenders (24.4%). Women were more likely to be sentenced to probation or to receive a fine.

Aboriginal and Torres Strait Islander peoples (39.0%) were more likely to receive a sentence of imprisonment compared to non-Indigenous offenders (34.7%) and were less likely to receive a fine.

**Table 4: Penalty types for unlawful use of a motor vehicle (MSO) by demographics and presence of aggravating circumstances, adult offenders, 2005–06 to 2019–20**

Penalty Type	Total %	Female %	Male %	Aboriginal or Torres Strait Islander %	Non-Indigenous %	Aggravating circumstance %	No aggravating circumstance %
<b>Custodial Penalties</b>	<b>48.4</b>	<b>36.4</b>	<b>51.8</b>	<b>51.0</b>	<b>47.5</b>	<b>56.3</b>	<b>47.9</b>
Imprisonment (n=4,129)	35.8	24.4	39.0	39.0	34.7	42.4	35.4
Partially suspended (n=159)	1.4	1.2	1.4	1.1	1.5	2.8	1.3
Wholly suspended (n=1,187)	10.3	9.9	10.4	9.8	10.4	10.2	10.3
Intensive correction order (n=93)	0.8	0.8	0.8	0.8	0.8	1.0	0.8
<b>Non-custodial Penalties</b>	<b>51.6</b>	<b>63.6</b>	<b>48.2</b>	<b>49.0</b>	<b>52.5</b>	<b>43.7</b>	<b>52.1</b>
Community service (n=916)	7.9	7.6	8.0	10.4	7.0	10.5	7.8
Probation (n=1,699)	14.7	24.5	11.9	14.7	14.8	13.0	14.8
Monetary (n=2,631)	22.8	23.4	22.6	17.7	24.6	17.1	23.1
Recognisance (n=415)	3.6	6.1	2.9	4.0	3.4	2.0	3.7
Convicted, nfp* (n=292)	2.5	1.9	2.7	2.1	2.6	1.1	2.6
<b>Total</b>	<b>100%</b> <b>n=11,544</b>	<b>100%</b> <b>n=2,590</b>	<b>100%</b> <b>n=8,954</b>	<b>100%</b> <b>n=3,165</b>	<b>100%</b> <b>n=8,336</b>	<b>100%</b> <b>n=609</b>	<b>100%</b> <b>n=10,935</b>

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2020.

Note: Offenders with unknown characteristics are excluded from each subgroup. 14 cases which received a nominal penalty of rising of the court have not been displayed, but have been included in the subtotals for custodial penalties. 9 cases which received a licence disqualification as the MSO have not been displayed, but have been included in the subtotals for non-custodial penalties.

\* not further punished.

### Length of sentence for adult offenders

As shown in Table 4 (see previous page), imprisonment was the most common penalty imposed for adult offenders who were sentenced for unlawfully using a motor vehicle (MSO). The average sentence length for adults sentenced to imprisonment was 10.1 months (median=9.0 months) – see Table 5. The longest sentence was 7 years (or 84 months).

On average, male offenders received longer imprisonment sentences (10.4 months) compared to female offenders (8.2 months) – see Table 5 on the following page.<sup>33</sup> Aboriginal and Torres Strait Islander offenders had slightly shorter average sentences lengths (9.1 months) compared to non-Indigenous offenders (10.5 months).<sup>34</sup>

Figure 20 below shows the distribution of sentences for different penalty types. The purple bars represent non-aggravated cases and the blue bars represent cases with aggravating circumstances.

Overall, cases with aggravating circumstances received longer sentences of imprisonment compared to those without a circumstance of aggravation.<sup>35</sup>

The longest head sentence for a partially suspended sentence was 5 years (the longest period of imprisonment that can be suspended at law). The

average head sentence for partially suspended sentences was 109 days (3.6 months). The longest amount of time a person was required to serve in prison before their sentence was suspended was 4 years. The average time required to be served before release was 11.1 months (median=9.0 months).

For those who received wholly suspended sentences, the longest head sentence was 2.5 years (or 30.1 months), and the average was 5.9 months (median=6.0 months).

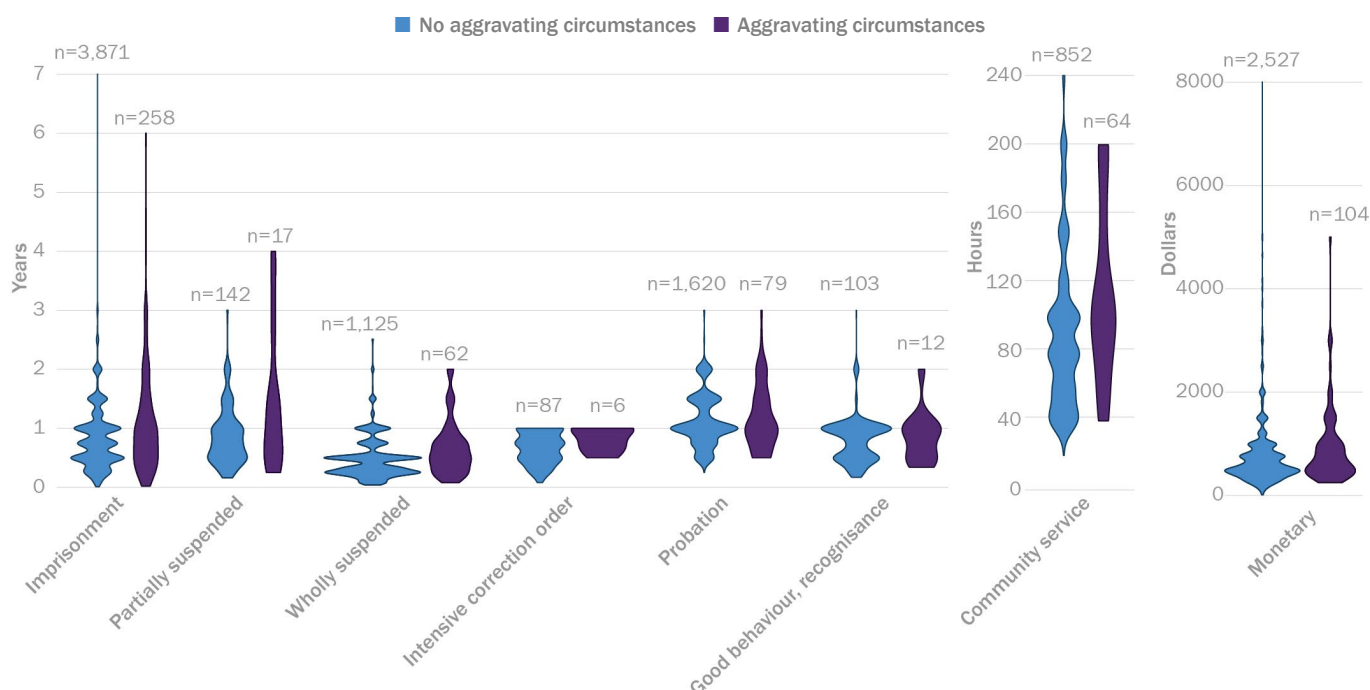
On average, offenders sentenced to community service were required to complete 92.5 hours of unpaid community work (median=80 hours).

Probation sentences ranged from 3 months to 3 years (the longest period available by law), with an average sentence length of 13.5 months (median=1.0 year).

The largest fine issued for unlawfully using a motor vehicle (MSO) was \$98,000. The average fine was \$809 (median=\$600).

The average length of recognisance orders imposed was 9.6 months (median=1.0 year). The longest recognisance order was 3 years, while the shortest was 2 months.

**Figure 20: Distribution of sentence length for unlawful use of a motor vehicle (MSO) with and without presence of aggravating circumstances, adult offenders, 2005–06 to 2019–20**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2020.

Note: Outlier cases are not displayed, see Table 5 on the following page for the maximum penalties given.

**Table 5: Sentencing outcomes for unlawful use of a motor vehicle (MSO), adult offenders, by demographics and presence of aggravating circumstances, 2005–06 to 2019–20**

	N	Avg	Median	Min	Max
<b>Imprisonment (months)</b>					
Female	633	8.2	6.1	0.7	34.1
Male	3,496	10.4	9.0	0.1	84.0
Aboriginal or Torres Strait Islander	1,234	9.1	8.1	0.1	84.0
Non-Indigenous	2,982	10.5	9.0	0.1	84.0
Aggravating circumstances	258	12.8	12.0	0.3	72.0
No aggravating circumstances	3,871	9.9	9.0	0.1	84.0
<b>All offenders</b>	<b>4,129</b>	<b>10.1</b>	<b>9.0</b>	<b>0.1</b>	<b>84.0</b>
<b>Partially suspended (months)</b>					
Female	32	7.9	7.5	2.0	17.9
Male	127	11.9	9.0	3.0	48.0
Aboriginal or Torres Strait Islander	36	9.1	7.1	2.0	36.0
Non-Indigenous	122	11.7	9.5	3.0	48.0
Aggravating circumstances	17	17.2	15.0	3.0	48.0
No aggravating circumstances	142	10.3	9.0	2.0	36.0
<b>All offenders</b>	<b>159</b>	<b>11.1</b>	<b>9.0</b>	<b>2.0</b>	<b>48.0</b>
<b>Wholly suspended (months)</b>					
Female	257	5.5	4.0	0.5	24.0
Male	930	6.0	6.0	0.5	30.1
Aboriginal or Torres Strait Islander	311	4.9	3.9	0.5	24.0
Non-Indigenous	840	6.2	6.0	0.5	30.1
Aggravating circumstances	62	8.0	6.1	1.0	24.0
No aggravating circumstances	1,125	5.8	5.0	0.5	30.1
<b>All offenders</b>	<b>1,187</b>	<b>5.9</b>	<b>6.0</b>	<b>0.5</b>	<b>30.1</b>
<b>Intensive correction order (months)</b>					
Female	21	8.8	9.0	1.0	12.0
Male	72	8.1	9.0	2.0	12.0
Aboriginal or Torres Strait Islander	26	8.0	9.0	3.0	12.0
Non-Indigenous	67	8.3	9.0	1.0	12.0
Aggravating circumstances*	6	-	-	-	-
No aggravating circumstances	87	8.1	9.0	1.0	12.0
<b>All offenders</b>	<b>93</b>	<b>8.2</b>	<b>9.0</b>	<b>1.0</b>	<b>12.0</b>
<b>Community service (hours)</b>					
Female	197	84.6	80.0	24.0	240.0
Male	719	94.6	80.0	20.0	240.0
Aboriginal or Torres Strait Islander	328	84.3	80.0	20.0	240.0
Non-Indigenous	587	97.1	100.0	24.0	240.0
Aggravating circumstances	64	112.4	100.0	40.0	200.0
No aggravating circumstances	852	91.0	80.0	20.0	240.0
<b>All offenders</b>	<b>916</b>	<b>92.5</b>	<b>80.0</b>	<b>20.0</b>	<b>240.0</b>
<b>Probation (months)</b>					
Female	634	13.5	12.0	3.0	36.0
Male	1,065	13.5	12.0	4.0	36.0
Aboriginal or Torres Strait Islander	465	12.3	12.0	3.0	36.0
Non-Indigenous	1,230	14.0	12.0	5.0	36.0
Aggravating circumstances	79	14.0	12.0	6.0	36.0
No aggravating circumstances	1,620	13.5	12.0	3.0	36.0
<b>All offenders</b>	<b>1,699</b>	<b>13.5</b>	<b>12.0</b>	<b>3.0</b>	<b>36.0</b>
<b>Monetary (dollars)</b>					
Female	605	\$745	\$500	\$60	\$24,900
Male	2,026	\$829	\$600	\$13	\$98,000
Aboriginal or Torres Strait Islander	561	\$628	\$500	\$95	\$24,900
Non-Indigenous	2,052	\$859	\$600	\$13	\$98,000
Aggravating circumstances	104	\$904	\$700	\$250	\$5,000
No aggravating circumstances	2,527	\$806	\$600	\$13	\$98,000
<b>All offenders</b>	<b>2,677</b>	<b>\$809</b>	<b>\$600</b>	<b>\$13</b>	<b>\$98,000</b>
<b>Good behaviour, recognisance (months)</b>					
Female	158	9.4	9.0	3.0	24.0
Male	257	9.7	12.0	2.0	36.0
Aboriginal or Torres Strait Islander	126	8.8	9.0	2.0	24.0
Non-Indigenous	284	9.9	12.0	3.0	36.0
Aggravating circumstances	12	10.3	12.0	4.0	24.0
No aggravating circumstances	403	9.6	10.0	2.0	36.0
<b>All offenders</b>	<b>415</b>	<b>9.6</b>	<b>12.0</b>	<b>2.0</b>	<b>36.0</b>

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2020.

\* descriptive statistics not shown due too small sample sizes (n<10).

## Youth penalties

Courts sentencing children use different powers and sentencing principles tailored for children under the *Youth Justice Act 1992* (Qld).<sup>36</sup> There are a range of specific orders available and imprisonment is not used – detention is the equivalent order. For unlawful use offences committed by children, a magistrate can impose a maximum of one year detention. A higher court can impose the shorter period of either half the maximum term of imprisonment applicable for an adult or five years.<sup>37</sup>

Over the 15-year data period, a total of 12.1 per cent (n=544) of children and young people sentenced for unlawful use of a motor vehicle (MSO)



received a custodial penalty. This is much higher than the 7.8 per cent of young offenders who were sentenced to a custodial penalty across all offence types in Queensland.

Non-custodial penalties were the most common penalties imposed on children and young people for unlawful use of a motor vehicle (MSO), with 997 offenders sentenced to probation (22.3%) and 939 offenders sentenced to a community service order (21.0%).

Detention was imposed in 6.4 per cent of cases (n=288) and was the most common custodial penalty imposed. An additional 4.8 per cent of offenders were sentenced to detention, but were immediately released into a structured program with strict conditions (a conditional release order, n=213)—see Table 6.

Aboriginal and Torres Strait Islander children and young people were twice as likely to receive a custodial penalty (15.8%) compared to non-Indigenous children (7.5%), and were also less likely to be sentenced to a court ordered conference or a recognisance order.

Boys were both significantly more likely to receive a custodial penalty (13.4%) and less likely to receive a probation order (20.8%) compared to girls (8.7% and 26.1% respectively).

Children and young people sentenced for unlawful use of a motor vehicle with aggravating circumstances were more likely to receive a custodial penalty (17.9%) compared to those sentenced for an offence with no aggravating circumstances (11.9%). They were also less likely to be sentenced to probation or receive a reprimand.

**Table 6: Penalty types for unlawful use of a motor vehicle (MSO) by demographics and presence of aggravating circumstances, children and young offenders, 2005–06 to 2019–20**

Penalty Type	Total %	Female %	Male %	Aboriginal or Torres Strait Islander %	Non-Indigenous %	Aggravating circumstances %	No aggravating circumstances %
<b>Custodial Penalties</b>	<b>12.1</b>	<b>8.7</b>	<b>13.4</b>	<b>15.8</b>	<b>7.5</b>	<b>17.9</b>	<b>11.9</b>
Detention (n=288)	6.4	4.5	7.2	8.3	4.0	9.9	6.3
Conditional release order (n=213)	4.8	2.9	5.5	5.8	3.5	8.0	4.6
Boot camp order* (n=37)	0.8	1.2	0.7	1.4	0.1	-	0.9
<b>Non-custodial Penalties</b>	<b>87.9</b>	<b>91.3</b>	<b>86.6</b>	<b>84.2</b>	<b>92.5</b>	<b>82.1</b>	<b>88.1</b>
Community service (n=939)	21.0	18.1	22.0	22.9	18.5	22.8	20.9
Probation (n=997)	22.3	26.1	20.8	23.1	21.2	16.7	22.5
Court ordered conference (n=667)	14.9	15.6	14.6	11.2	19.5	14.8	14.9
Monetary (n=46)	1.0	0.2	1.4	0.5	1.6	1.9	1.0
Recognisance (n=596)	13.3	13.9	13.0	10.9	16.5	14.2	13.3
Convicted, nfp** (n=67)	1.5	0.7	1.8	1.3	1.7	-	1.6
Reprimand (n=622)	13.9	16.8	12.8	14.3	13.4	11.7	14.0
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
	<b>n=4,478</b>	<b>n=1,220</b>	<b>n= 3,257</b>	<b>n= 2,525</b>	<b>n=1,940</b>	<b>n=162</b>	<b>n=4,316</b>

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2020.

Note: Intensive supervision orders were excluded due to small sample size (n<10).

\* Boot camp orders were introduced on 31 January 2013 and were repealed from 1 July 2016. The orders were available in a limited number of geographic locations.

\*\* Not further punished.

### Length of sentence for children and young people

Table 7 shows that the most common penalty imposed on children and young people for unlawful use of a motor vehicle (MSO) was probation (n=997). The longest probation order was 3 years, and the average length was 7.5 months (median=6.1 months).

Boys were more likely to receive a longer probation order compared to girls (7.6 months compared with 6.9 months).

Non-Indigenous children and young people were more likely to receive a slightly longer term of probation than Aboriginal and Torres Strait Islander children and young people (7.6 months to 7.2 months). The largest difference in probation periods was between those imposed for unlawful use of a motor vehicle with (9.4 months on average) and without (7.3 months on average) aggravating circumstances – see Table 7.

Figure 21 shows the distribution of sentences for each penalty type, by aggravating circumstances.

The longest detention period ordered was 3.0 years, with the average being 3.6 months (median=3 months). Cases

with aggravating circumstances received longer sentences of detention compared to those without a circumstance of aggravation.

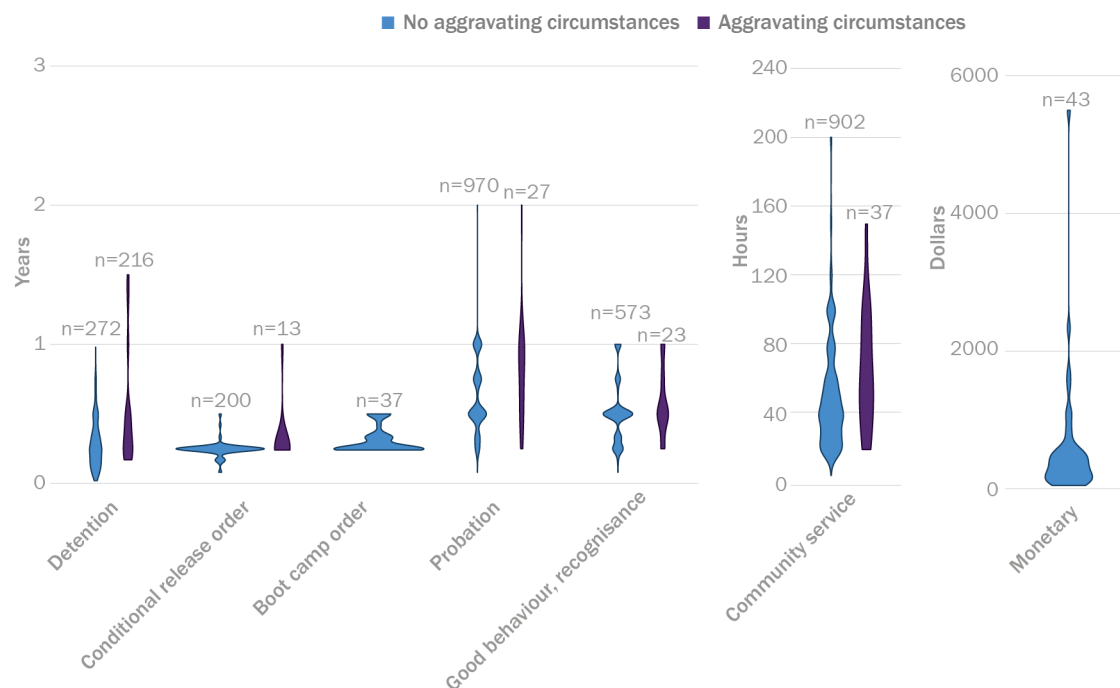
A conditional release order was made in 4.8 per cent of cases, with an average head sentence of 27 days, while the longest sentence was 12 months.

On average, young offenders sentenced to community service were required to complete 52.0 hours of unpaid community work (median=40 hours).

The largest fine given to a child or young person for unlawful use of a motor vehicle (MSO) was \$5,500. On average, children and young people who received a fine were required to pay \$591 (median=\$325).

The average length of recognisance orders imposed on children and young people was 6.1 months (median=6.0 months). The longest recognisance order was 1 year, while the shortest was 1 month.

**Figure 21: Distribution of sentence length for unlawful use of a motor vehicle (MSO) with and without presence of aggravating circumstances, children and young offenders, 2005–06 to 2019–20**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2020.

Note: Outlier cases are not displayed, see Table 7 on the following page for the maximum penalties given.

Intensive supervision orders were excluded due to small sample size (n<10). Cases with circumstances of aggravation were excluded for monetary penalties and boot camp orders due to small sample size (n<10).

Boot camp orders were introduced on 31 January 2013 and were repealed from 1 July 2016. The orders were available in a limited number of geographic locations



Table 7: Sentencing outcomes for unlawful use of a motor vehicle (MSO), children and young offenders, by demographics and aggravating circumstances, 2005–06 to 2019–20

	N	Avg	Median	Min	Max
<b>Detention (months)</b>					
Female	55	3.6	3.0	0.8	11.7
Male	233	3.6	3.0	0.3	18.0
Aboriginal or Torres Strait Islander	210	3.5	3.0	0.3	18.0
Non-Indigenous	78	3.9	3.0	0.9	16.0
Aggravating circumstances	16	6.0	4.2	2.0	18.0
No aggravating circumstances	272	3.5	3.0	0.3	11.7
<b>All offenders</b>	<b>288</b>	<b>3.6</b>	<b>3.0</b>	<b>0.3</b>	<b>18.0</b>
<b>Conditional release order (months)</b>					
Female	35	3.1	3.0	0.9	12.0
Male	178	3.0	3.0	1.0	6.0
Aboriginal or Torres Strait Islander	146	3.0	3.0	1.0	12.0
Non-Indigenous	67	3.1	3.0	0.9	6.0
Aggravating circumstances	13	3.8	3.0	2.9	12.0
No aggravating circumstances	200	3.0	3.0	0.9	6.0
<b>All offenders</b>	<b>213</b>	<b>3.0</b>	<b>3.0</b>	<b>0.9</b>	<b>12.0</b>
<b>Boot camp order (months)</b>					
Female	15	4.1	3.9	2.9	6.1
Male	22	3.5	3.0	2.9	6.0
Aboriginal or Torres Strait Islander	36	3.0	2.9	4.0	3.7
Non-Indigenous*	1	-	-	-	-
Aggravating circumstances	0	-	-	-	-
No aggravating circumstances	37	3.7	3.0	2.9	6.1
<b>All offenders</b>	<b>37</b>	<b>3.7</b>	<b>3.0</b>	<b>2.9</b>	<b>6.1</b>
<b>Community service (hours)</b>					
Female	221	47.3	40.0	20.0	200.0
Male	718	53.5	47.0	5.0	200.0
Aboriginal or Torres Strait Islander	579	48.9	40.0	5.0	200.0
Non-Indigenous	358	57.2	50.0	10.0	200.0
Aggravating circumstances	37	66.4	60.0	20.0	150.0
No aggravating circumstances	902	51.4	40.0	5.0	200.0
<b>All offenders</b>	<b>1,855</b>	<b>52.0</b>	<b>40.0</b>	<b>5.0</b>	<b>200.0</b>
<b>Probation (months)</b>					
Female	318	6.9	6.0	1.9	24.0
Male	679	7.6	6.1	1.0	24.0
Aboriginal or Torres Strait Islander	584	7.2	6.1	1.0	24.0
Non-Indigenous	412	7.6	6.1	1.9	24.0
Aggravating circumstances	27	9.4	9.0	3.0	24.0
No aggravating circumstances	970	7.3	6.1	1.0	24.0
<b>All offenders</b>	<b>997</b>	<b>7.4</b>	<b>6.1</b>	<b>1.0</b>	<b>24.0</b>
<b>Monetary (dollars)</b>					
Female*	2	-	-	-	-
Male	44	\$605	\$340	\$50	\$5,500
Aboriginal or Torres Strait Islander	13	\$650	\$150	\$100	\$5,500
Non-Indigenous	31	\$586	\$400	\$50	\$2,338
Aggravating circumstances*	3	-	-	-	-
No aggravating circumstances	43	\$587	\$350	\$50	\$5,500
<b>Total</b>	<b>46</b>	<b>\$591</b>	<b>\$325</b>	<b>\$50</b>	<b>\$5,500</b>
<b>Good behaviour, recognisance (months)</b>					
Female	170	5.8	6.0	1.0	12.0
Male	425	6.2	6.0	1.0	12.0
Aboriginal or Torres Strait Islander	274	5.7	6.0	1.0	12.0
Non-Indigenous	321	6.4	6.0	2.0	12.0
Aggravating circumstances	23	6.9	6.0	3.0	12.0
No aggravating circumstances	573	6.1	6.0	1.0	12.0
<b>All offenders</b>	<b>596</b>	<b>6.1</b>	<b>6.0</b>	<b>1.0</b>	<b>12.0</b>

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2020.

Note: intensive supervision orders were excluded due to small sample size (less than 10).

\* descriptive statistics not shown due to small sample size (n<10).

# Endnotes

<sup>1</sup> *Criminal Code* (Qld) s 408A(1)(a).

<sup>2</sup> *Criminal Code* (Qld) s 408A(1)(b).

<sup>3</sup> *Criminal Code* (Qld) s 408A(1A).

<sup>4</sup> *Criminal Code* (Qld) s 408A(1B).

<sup>5</sup> *Criminal Code* (Qld) s 552D, which also contains other reasons requiring a charge to be sent to a higher court, such as exceptional circumstances, which can include that the charge in question is sufficiently connected to others which are being dealt with in a higher court, and they should all be tried together.

<sup>6</sup> *Criminal Code* (Qld) s 552BB and see *District Court of Queensland Act 1967* (Qld) s 60.

<sup>7</sup> *Criminal Code* (Qld) s 1.

<sup>8</sup> *Summary Offences Act 2005* (Qld) Schedule 2.

<sup>9</sup> Sentencing rates are calculated using the Estimated Resident Population (ERP) data derived from ABS Catalogue 3101.0 and expressed as the number of offenders per 100,000 population. Rates were adjusted by the number of people in that age group (i.e. young people: 10-17 years, adults: 18 and older, all offenders: 10 and over).

<sup>10</sup> For example, see Queensland Government Statistician's Office, Crime report, Queensland, 2018-19, <https://www.qgso.qld.gov.au/issues/7856/crime-report-ql-2018-19.pdf>, Figure 12.

<sup>11</sup> *Ibid* Figure 12 and Table 34.

<sup>12</sup> Independent groups t-test:  $t(6651) = 3.08$ ,  $p = 0.0021$ ,  $r = 0.04$  (equal variances not assumed).

<sup>13</sup> Pearson's chi-square test:  $\chi^2(1) = 50.98$ ,  $p < 0.0001$ .

<sup>14</sup> As at 30 June 2015. See Queensland Government Statisticians Office (GovStats), Population estimates by Indigenous Status, LGAs, 2001 to 2015, available at <<http://www.qgso.qld.gov.au/subjects/demography/atsi-people/tables/pop-est-indigenous-status/index.php>> accessed 4 August 2017.

<sup>15</sup> Independent groups t-test:  $t(15054) = 44.25$ ,  $p < 0.0001$ ,  $r = 0.34$  (equal variances not assumed).

<sup>16</sup> Pearson's chi-square test:  $\chi^2(1) = 2.77$ ,  $p = 0.0959$ .

<sup>17</sup> Pearson's chi-square test:  $\chi^2(1) = 7.60$ ,  $p = 0.0058$ .

<sup>18</sup> *Criminal Code* (Qld) s 29. Sentencing laws are different for children, who are sentenced under the *Youth Justice Act 1992* (Qld) (YJA). In contrast, the *Penalties and Sentences Act 1992* (Qld) applies to the sentencing of adults. For more information, see <https://www.sentencingcouncil.qld.gov.au/aboutsentencing/sentencing-child-offenders>. The equivalent of imprisonment for a child is detention. The YJA sets different maximum detention periods for children depending on the level of the sentencing court and seriousness of the offence. The maximum sentence available to higher courts is generally lower than that applicable to adults. Relevant ages for

children and criminal responsibility have changed. Until 12 February 2018, children aged between 10 and 16 were sentenced as children. From 12 February 2018, 17-year-olds are also treated as children.

<sup>19</sup> Pearson's chi-square test:  $\chi^2(1) = 41.25$ ,  $p < 0.0001$ .

<sup>20</sup> Pearson's chi-square test:  $\chi^2(1) = 1181.84$ ,  $p < 0.0001$ .

<sup>21</sup> Pearson's chi-square test:  $\chi^2(1) = 19.36$ ,  $p < 0.0001$ .

<sup>22</sup> Magistrates Courts and the District Court have equivalent courts created by legislation which can exercise the specific sentencing powers for children under the *Youth Justice Act 1992* (Qld).

<sup>23</sup> Pearson's chi-square test:  $\chi^2(1) = 0.03$ ,  $p = 0.8529$ .

<sup>24</sup> Pearson's chi-square test:  $\chi^2(1) = 0.67$ ,  $p = 0.4114$ .

<sup>25</sup> Independent groups t-test:  $t(6116.7) = 1.08$ ,  $p = 0.2941$ ,  $r = 0.01$  (equal variances not assumed).

<sup>26</sup> Independent groups t-test:  $t(15658) = 17.18$ ,  $p < 0.001$ ,  $r = 0.14$  (equal variances not assumed).

<sup>27</sup> To calculate recidivism, offenders were linked across multiple court events to identify occurrences of prior offending and reoffending. This offender linkage was undertaken by the Queensland Government Statistician's Office, and involved both deterministic and probabilistic matching techniques to account for anomalies in data systems in relation to common administrative data errors relating to issues such as the use of nicknames and transposed details.

<sup>28</sup> Independent groups t-test:  $t(2057.2) = 5.86$ ,  $p < 0.0001$ ,  $r = 0.13$  (equal variances not assumed).

<sup>29</sup> Independent groups t-test:  $t(1910.3) = 2.1$ ,  $p = 0.036$ ,  $r = 0.05$  (equal variances not assumed).

<sup>30</sup> Independent groups t-test:  $t(4498.1) = 11.33$ ,  $p < 0.0001$ ,  $r = 0.17$  (equal variances not assumed).

<sup>31</sup> Independent groups t-test:  $t(4244.7) = 16.62$ ,  $p < 0.0001$ ,  $r = 0.25$  (equal variances not assumed).

<sup>32</sup> Queensland Sentencing Advisory Council (October 2019). Sentencing spotlight on Burglary. Retrieved from [https://www.sentencingcouncil.qld.gov.au/\\_\\_data/assets/pdf\\_file/0009/636435/sentencing-spotlight-on-burglary.pdf](https://www.sentencingcouncil.qld.gov.au/__data/assets/pdf_file/0009/636435/sentencing-spotlight-on-burglary.pdf)

<sup>33</sup> Independent groups t-test:  $t(1172) = 10.09$ ,  $p < 0.0001$ ,  $r = 0.28$  (equal variances not assumed).

<sup>34</sup> Independent groups t-test:  $t(2548.2) = 6.48$ ,  $p < 0.0001$ ,  $r = 0.13$  (equal variances not assumed).

<sup>35</sup> Independent groups t-test:  $t(271.16) = 4.72$ ,  $p < 0.0001$ ,  $r = 0.28$  (equal variances not assumed).

<sup>36</sup> Magistrates Courts and the District Court can therefore exercise the specific sentencing powers for children, sitting as Childrens Courts.

<sup>37</sup> *Youth Justice Act 1992* (Qld) s 175(1)(g).



Queensland Sentencing  
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